SINGLE BENCH

IN THE HIGH COURT OF JUDICATURE:CHHATTISGARH:BILASPUR

WRIT PETITION NO : 1644 OF 2005

P.R. No. 1825/05
Presented by Shri Anurag Shrivastava
dated 25/11/05

PETITIONERS :

1. Dev Singh Ram
aged 31 yrs,s/o Shri J.Ram
MPW-Multipurpose Health Worker
PHC-Duldula, Distt-Jashpur CG

2. Subodh Kumar Dubey
aged 30 yrs,s/o Shri T.K.Dubey
MPW-Multipurpose Health Worker
CHC:Farsabahar,Distt-Jashpur CG

3. Rajendra Kumar
aged 33 yrs,s/o Shri M.Ram
MPW-Multipurpose Health Worker
CHC:Farsabahar,Distt-Jashpur CG

4. Ganesh Ram Navratna
aged 33 yrs,s/oShriS.R.Navratna
MPW-Multipurpose Health Worker
PHC- Bhagora, Distt-Jashpur CG

5. Lalit Kumar yadav
aged 27 yrs,s/o Shri P.R.Yadav
MPW-Multipurpose Health Worker
PHC- kersai, Distt-Jashpur CG

6. Ram Sai Paikra
aged 32 yrs, Shri M.S.Paikara
MPW-Multipurpose Health Worker
PHC:Tapkara, Distt-Jashpur CG

7. Sahadeo Ram Bhagat
aged 31 yrs,s/o ShriR.R.Bhagat
MPW-Multipurpose Health Worker
PHC-Tapkara, Distt-Jashpur CG

8. Prafulla Diwan
aged 28 yrs,s/o Shri S.S.Diwan
MPW-Multipurpose Health Worker
PHC : Kersai -Distt-Jashpur CG

9. Ku. Sosan Lakda
aged 29 yrs,d/o A. Lakda
ANM:Auxiliary Nurse Mid Wife
CHC:Farsabahar,Distt-Jashpur CG

10. Tulsi Ram Bhagat
aged 23yrs,s/o Shri B.R.bhagat
Pharmasist-II
PHC-kersai, Distt-Jashpur CG

RECEIVED COPY
25.11.05
CLERK to A. G. BILASPUR

R D Agsal
Adv

(8)

11. Santoshi Bai Chouhan
Aged 21 yrs,d/oShri D.R.Chouhan
Dressor-grade-II
PHC-Kersai,Distt-Jashpur CG

12. Satyanarayan Ratre
Aged 34 yrs,s/o M.S.Ratre
MPW-Multipurpose Health Worker
CHC-Farsabahar Distt-Jashpur CG

13. Ku. BodhKumari Sonwani
ANM:Auxiliary Nurse Mid Wife
Aged 22 yrs,d/o Shri Paras Ram
PHC-Bhagora, Distt-Jashpur CG

14. Ku. Devki Chouhan
aged 29 yrs,d/o Shri R.F.Ram
ANM:Auxiliary Nurse Mid Wife
PHC-Tapkara, Distt-Jashpur CG

15. Ku. Swati Shanti Kujur
Aged 30 yrs,d/o Shri J.Kujur
ANM:Auxiliary Nurse Mid Wife
cHC-Farsabahar,Distt-Jashpur CG

16. Ku. Rameshwari Bai
aged 31 yrs,d/o Shri Dhana Ram
ANM:Auxiliary Nurse Mid Wife
CHC:Farsabahar,Distt-Jashpur CG

17. Raja Ram Behara
aged 25 yrs,s/oShriD.R.Behara
MPW-Multipurpose Health Worker
CHC-Farsabahar,Distt-Jashpur CG

18. Smt. Chndrakanti Sagar
aged 24 yrs,w/oShri C.K.Sagar
ANM:Auxiliary Nurse Mid Wife
CHC-Farsabahar ,Distt-Jashpur

19. Chainu sai
aged 34 yrs,s/o Shir D.Sai
MPW-Multipurpose Health Worker
CHC-Kunkuri, Distt-Jashpur CG

20. Harnarayan Ratre
aged 35 yrs,d/oShri B.S.Ratre
MPW-Multipurpose Health Worker
CHC : Kunkuir -Distt-Jashpur CG

21. Guleshwar ram Bhagat
aged 25 yrs, s/o Shri B.Ram
MPW-Multipurpose Health Worker
CHC-Kunkuri, Distt-Jashpur CG

Dayal
Adv

(9)

22. Ku.Ranjana Dedsena
aged 22 yrs,d/o S.R.Dedsena
MPW-Multipurpose Health Worker
CHC-Kunkuri, Distt-Jashpur CG

23. Deo Dutta Singhdeo
aged 30 yrs,s/o B.K.Singhdeo
MPW-Multipurpose Health Worker
CHC-kasabel, Distt-Jashpur CG

24. Jagjeevan Lal Nisad
aged 25 yrs,s/oShri S.L.Nisad
MPW-Multipurpose Health Worker
CHC-kasabel, Distt-Jashpur CG

25. Rohit Kumar Sonsare
Aged 35 yrs,s/oShri K.Sonsare
MPW-Multipurpose Health Worker
CHC-Kasabel, Distt-Jashpur CG

26. Ku. Dropadi Parihari
Aged 34 yrs,s/oShriN.R.Parihari
ANM:Auxiliary Nurse Mid Wife
CHC-Pathalgaon,Distt-Jashpur CG

27. Bandhu Singh Sidar
aged 31 yrs,s/o Shri J.N.Sidar
Dressor : CHC-Pathalgaon
Distt-Jashpur CG

28. Laxman Prasad Choudhary
aged 30 yrs,s/oShri J.Choudhary
MPW-Multipurpose Health Worker
CHC: Pathalgaon,Distt-Jashpur

29. Ku. Nirmala Bareth
aged 22 yrs,s/o Shri D.Bareth
Dressor-grade-II
CHC-Pathalgaon, Distt-Jashpur

30 . Bhuneshwar Prasad
aged 30 yrs,s/o B.Das
MPW-Multipurpose Health Worker
CHC-Kasabel,Distt-Jashpur CG

31. Sahaj Kumar Chouhan
aged 26 yrs,s/o Shri S.Das
MPW-Multipurpose Health Worker
CHC-kunkuri, Distt-Jashpur CG

-VERSUS-

RESPONDENTS : 1. THE STATE OF CHHATTISGARH
Through : The Secretary to
the Govt. of Chhattisgarh,

Adv

(10)

Health and Family Welfare
Department : Mantralaya : DKS
Bhavan : Raipur CG

2. The Joint Director,
Health Services,
Directorate :Health Services
Raipur CG

3. The Chief Medical and
Health Officer,
Jashpurnagar,
Distt - Jashpur CG

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

XI-HC-22

(191)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	29-4-2005 On a mention being made, the matter is taken up for hearing. Mr. R. Dayal Shrivastava, counsel for the petitioners. Mr. Sanjay Shyam Agrawal, Government Advocate for the State/ respondents. W.P.No.1643/2005 filed by Salik Ram & 22 others; W.P. No.1515/2005 filed by Kum. Mamta Naidu & five others; and W.P. No.1644/2005 filed by Dev Singh Ram & 30 others relate to appointment of the petitioners as Health Workers for a period of two years, and now their services have been ~~removed~~ terminated by the impugned order before the expiration of two years' period, after giving them one month's notice, therefore, they have challenged the legality, propriety and correctness of the orders dated 31st March, 2005 issued by the Chief Medical & Health Officer, Jashpurnagar. Hence, the above writ petitions are being disposed of by this common order. Heard both the counsel on admission. In W.P.No.1644/2005, the petitioners were appointed on contract basis vide orders Annexures P-33 to P-63 in compliance of the letter dated 11-7-2003 (Annexure P-2) issued by respondent No.1, and the appointment of the petitioners was for two years with effect from August, 2003. In W.P.No.1643/2005 appointment of 23 petitioners was issued in compliance of the letter dated 11-7-2003 (Annexure P-2) under	

(112)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

orders Annexures P-26 to P-48, and in W.P.No.1515/2005 the petitioners appointment was also issued in compliance of letter dated 11-7-2003 (Annexure P-2) under Annexures P-9 to P-14.

The main ground taken in these writ petitions is that the appointment of the petitioners was for two years and that is going to expire in the month of August, 2005, therefore, the petitioners' services cannot be terminated till the expiry of that period.

Mr. R. Dayal Shrivastava, learned counsel for the petitioners argued that as per condition No.8 of the appointment letters, the petitioners have received one week training, therefore, they cannot be removed from service under the pretext that they are not trained Health Workers. He submitted that the petitioners' services are being terminated on the ground that for the appointment of trained Health Workers their services are being terminated. He further submitted that as per clause 8 when the petitioners have already received training they cannot be removed.

On the other hand, Mr. Sanjay Shyam Agrawal, learned Govt. Advocate argued that in the termination order the ~~order~~ words" for recruitment of trained Health Workers" is innocuous and has no relevance in the facts and circumstances. This is a simpliciter termination ~~in compliance of~~ under clause 7 of the appointment letter which envisages that the contract appointment can be terminated by giving

(पीछे देखिये)

(113)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

month's prior notice by any of the parties, and in compliance of that clause, the termination order has been passed. Therefore, the petitioners are not entitled for any relief sought for in these writ petitions.

Having heard learned counsel for the parties, I have perused the record. Perusal of the appointment letters shows that the petitioners were appointed ~~under letter dated 14.6.2003 (Annexure P-2)~~ for a period of two years at the fixed salary of Rs.2,000/- per month on contract basis to work as Health Workers. Clause 7 of the appointment letters envisages that the contract appointment can be terminated after giving one month's advance notice by any of the parties. In these cases, this condition has been complied with. Even though it is mentioned in clause 8 of the appointment letters that the petitioners were required to undergo one week training after entering into service in order to discharge their duties, even if the petitioners have received one week training in compliance of this clause, Clause 7 cannot be ignored. A right has been given to the employer and employee both that they can terminate their contract by giving one month's prior notice and the same has been done in these cases. Therefore, I am of the opinion that there is no merit in these writ petitions.

For this view, I am supported by the decision of the Apex Court in the matter of **Shailaja Shivajirao Patil vs. President, Hon'ble Khasdar**

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(114)

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 4 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

UGS Sanstha and others reported in **(2002) 10 SCC 394**, in which a school teacher was appointed on probation for two years and during that probation period her services were terminated, the Apex Court held that her termination was valid being a tenure appointment which could be terminated at any time without notice. In that case, in the termination order it was mentioned that the petitioner's services were no longer required, but there was a mention that she was warned in writing about certain draw backs in her work, then the employee challenged that it is a stigma and without enquiry she could not have been terminated. The Apex Court rejecting the plea held that during tenure appointment the termination order passed by the respondents was valid.

In the present cases, the contract was terminable with one month's prior notice, and after giving one month's notice the petitioners' services have been terminated. Therefore, I do not find any illegality or infirmity in the orders impugned.

In the result, the writ petitions are dismissed, at the admission stage itself.

Consequently, M.(W.)P.Nos.1176/2005, 1281/2005, 1285/2005, I.A.Nos.3170/2005, 3205/2005 and 3206/2005 stand disposed of.

Sd/-
L.C. Bhadoo
Judge

Soma

(पीछे देखिये)

26/3/14